

REMARKS

Response to Office Action

Applicant provides below remarks in response to the outstanding Office Action mailed September 25, 2009.

Allowable Subject Matter

Applicant gratefully acknowledges the indication of allowable subject matter on pages 17-19 of the Action that that claims 20, 37, 64-66, 75, 81, 88 and 89 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has herein rewritten claims 20, 37, 64-65, 75, 81 and 88 in independent form to include all limitations of their base claim(s). Applicant has amended claim 66 and submits that claim 66 is allowable in its present form, as it is dependent from claim 65 which has been rewritten in independent form. Applicant additionally amended claim 89 and submits that claim 89 is allowable in its present form as it is dependent from claim 88 which has been rewritten in independent form.

Dependent claims have been re-subordinated under such claims 20, 37, 64-66, 75, 81, 88 and 89, and all other claims are hereby cancelled without prejudice. In view of the claim amendments and cancellations, all rejections and objections to the claims under 35 USC § 103 are thus overcome or rendered moot.

Status of Claims

Claims 1-19, 35-36, 57-63, 67-71, 76, 82-83, 85 and 90-106 are cancelled. Claims 20-34, 37-56, 64-66, 72-75, 77-81, 84 and 86-89 remain pending in the present application. Applicant respectfully submits that all remaining claims in the application are directed to allowable subject matter, and requests that same be confirmed in a Notice of Allowance.

Objections to Informalities

Claim Objections

In the Action, Examiner objected to claims 40, 58-62, 64-66, 68-70, 72-75, 77-81, 83-84, 86-92, 94, 95, 98-100, 102 and 105 on the basis of various informalities under 37 CFR 1.75(c). Where such objected-to claims are cancelled, the objection thereto are rendered moot, and of the remaining claims, Applicant has amended such remaining as suggested by Examiner.

By these amendments and claim cancellations, Applicant respectfully traverses Examiners objections under 37 CFR 1.75(c) are overcome.

Objection to the Specification, Rejections under 35 USC § 101

At page 2 the Action, Examiner objected to the specification and suggested that the specification failed to provide proper antecedent basis for the claimed subject matter under 37 CFR 1.75(d)(1) and MPEP § 608.01(o) for the term "a computer readable medium" appearing in claims 36-94. At page 4 of the Action, Examiner also made a rejection to claims 36-94 under 35 USC § 101 in stating that claims 36-94 claim transitory signals and there is no records showing the "computer readable medium" is a non-transitory storage medium either in the claims or in the specification.

Applicant draws Examiner's attention to paragraphs [0081], [0084] and [0095] of the specification as exemplary support for this term. In particular, paragraph [0084] provides:

[0084] Each node N maintains a network information database D that is configured to maintain knowledge about at least some of the other nodes N within network 30. Each database D is maintained in volatile storage (e.g. random access memory ("RAM")) and/or non-volatile storage (e.g. hard disc drive) or combinations of volatile or non-volatile storage, in a computing environment associated with its respective node N. Database D is used by each node N to locate other nodes N in network 30, so that the particular node N can send traffic to that other node N and/or to share knowledge about those other nodes N. [emphasis added]

Applicant respectfully submits that a person of ordinary skill in the art would understand that the use of volatile storage and/or non-volatile storage describes computer readable medium that is not transitory signals per se. Additionally, paragraph [0081] and [0095] describes that programming instructions operates at nodes of a network, which nodes are computing devices such as personal computers, laptop computers or personal digital assistants, all of which would have been understood by the person of ordinary skill in the art to have computer readable medium that is not transitory signals for the programming instructions.

Furthermore, Applicant notes that the term "computer readable medium" is not new to the specification: Claim 18 as originally filed was also directed to "[a] computer readable medium for storing a set of programming instructions...", and as such the term "computer readable medium" has formed part of the original specification to the present application (see *MPEP* 2163.06 and 2164). For greater clarity and as directed by *MPEP* 2163.06, Applicant herein amends the specification by amending paragraph [0079] to describe that exemplary embodiments on the invention are directed to computer readable medium.

In view of the above remarks and amendment, Applicant respectfully submits that all objections and rejections under 37 CFR 1.75(d)(1) and 35 USC § 101 are traversed.

[Remainder of page blank]

CONCLUSION

Applicant believes that it has fully responded to the Examiner's concerns, and that the application is in condition for immediate allowance. Applicant respectfully requests reconsideration and immediate allowance of the claims.

Please charge any deficiency or credit any overpayment in any fee required for this response, including any petition fee, to Deposit Account No. 50-2651.

Applicant requests that any questions concerning this matter be directed to the undersigned at (416) 865-8244.

DATE: JANUARY 25, 2010

Respectfully submitted,



Agent for the Applicant
Edward Fan
Registration No. 56,493

33721 - TORYS LLP
Suite 3000, P.O. Box 270
79 Wellington Street West
TD Centre
Toronto, ON
M5K 1N2
CANADA
Tel.: 416.865.0040
Fax: 416.865.7380